Group IV (claim 10), drawn to a method for detecting the activity of the enzyme of SEQ ID NO:2;

Group V (claim 12), drawn to a method for detecting the enzyme of SEQ ID NO:2 in a cell or tissue sample, using its substrate or inhibitor;

Group VI (claims 1-6, 11, 13 and 14), drawn to a novel membrane protease of SEQ ID NO:4, encoding DNA, expression vector, host cell, antibody and a method of using the enzyme in screening for inhibitors;

Group VII (claim 7), drawn to a method for immunologically detecting the enzyme of SEQ ID NO:4 in a cell;

Group VIII (claims 8 and 9), drawn to a method for detecting the expression of the polypeptide SEQ ID NO:4 in a cell;

Group IX (claim 10), drawn to a method for detecting activity of the enzyme in SEQ ID NO:4; and

Group X (claim 10), drawn to a method for detecting the enzyme of SEQ ID NO:4 in a cell or tissue sample, using its substrate of inhibitor.

The Examiner asserts that the inventions listed in Groups I-X do not relate to a single general inventive concept under PCT Rule 13.1 because under PCT Rule 13.2, they lack the same or corresponding technical features. Specifically the Examiner asserts that the special technical feature of Groups I-V is a novel membrane bound metalloprotease having amino acid sequence of SEQ ID NO:2 and the special technical feature of Group V-X is a novel membrane bound metalloprotease having amino acid sequence of SEQ ID NO:4. Further, the Examiner asserts that the enzymes are different chemical compounds having different chemical structures and thus the

technical features of Groups I-IV and VI-X are different. In addition, although the Examiner notes that the technical feature of Groups II-V is the same as the technical feature of Group I, 37 C.F.R. § 1.475 does not provide for multiple products or methods within a single application and therefore unity of invention is lacking with regard to Groups I-V. Similarly, the Examiner asserts that the technical feature of Groups VII-X is the same as the technical feature of Group VI but, under 37 C.F.R. § 1.475, there is a lack of unity of invention with regard to Groups VI-X.

The requirement for restriction is respectfully traversed.

As an initial matter, it is noted that the Examiner correctly states that the standard to be applied to restrict the present case is the unity of invention standard which applies because this is a national stage of a PCT application. However, in this regard, it is respectfully noted that the actual PCT Examiners did not restrict this case and held to the contrary that there was no lack of unity of invention. Please see the attached IPER, Section 3, Box IV, which is not checked.

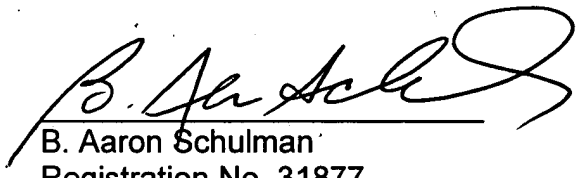
Further, Applicants respectfully submit that, as the PCT Examiners have already determined, the inventions of Examiner identified Groups I and VI, corresponding to claims 1-6, 11, 13 and 14, form a single general inventive concept. The aforementioned claims are based on the general inventive concept of identifying a new Metalloprotease called NEP II. The present inventors were the first to identify and clone this protein. Further, prior to the present invention, this protein was not known in any animal species. As a result of the work of the present inventors, the NEP II protein has now been identified and characterized in both rat and humans. However, the rat sequence (SEQ ID NO:2) and the human sequence (SEQ ID NO:4) belong to the same inventive

concept. SEQ ID NO:2 and SEQ ID NO:4 are counterpart variants in various species but represent the same invention, whose novelty has not been questioned (e.g., see IPER). Thus, both groups should be considered simultaneously as the subject matter of Group I and the subject matter of Group VI share the same inventive concept, i.e., the identification and use of a new protein, namely NEP II. Therefore, Applicants respectfully submit that it is inappropriate to separate rat NEP II (Group I) from human NEP II (Group VI).

To complete the response, Applicants without prejudice to the above-stated arguments, provisionally elect Group VI.

Respectfully submitted,

LARSON & TAYLOR, PLC



B. Aaron Schulman
Registration No. 31877

1199 North Fairfax Street, Suite 900
Alexandria, Virginia 22314
(703) 739-4900

September 26, 2002